

1 was. Strictly guessing. What happened was a horrible,
2 tragic accident, and Jeffrey Havard was really stupid for
3 not immediately calling someone or thinking he knew enough
4 when to decide when a baby was hurt or a baby wasn't hurt
5 and he put the baby back in the bed. But Jeffrey Havard
6 does not deserve to be found guilty of capital murder via
7 the route of sexual battery because he's stupid and
8 because he had absolutely no idea what he was dealing with
9 in trying to take care of a child of a girlfriend that had
10 been living with him for three weeks. When you go back to
11 consider all these things, please consider the points that
12 we have shown you also about what isn't there because the
13 State has tried to construct a horrible charge, capital
14 murder, it doesn't get any more serious than that, out of
15 a tragedy certainly for the child and obviously for her
16 family. And one more tragedy on top of that of being
17 found guilty on the part of Jeffrey Havard for capital
18 murder isn't going to do anything to make anybody feel
19 better. The facts simply aren't there to support your
20 finding him guilty of sexual battery and through that for
21 capital murder. And Jeffrey Havard asks you to find him
22 not guilty of the charge of capital murder.

23 BY THE COURT: Mr. Harper.

24 BY MR. HARPER: May it please the Court, Your
25 Honor.

26 BY THE COURT: Yes, sir.

27 BY MR. HARPER: Ladies and gentlemen, I don't know
28 what courtroom Mr. Sermos has been in for the last three
29 days, but he obviously has not been in the same one I've

1 been in. The evidence in this case is more overwhelming
2 that any I've ever been involved in. We were here Monday
3 morning, talked about the burden of proof in this case,
4 and I asked each and every one of you if you would be
5 reasonable in trying to decide whether you had any doubt
6 as to the defendant's guilt in this case, and every one of
7 you told me that you would. And I submit to you, ladies
8 and gentlemen, that you're reasonable in this case and you
9 know what the verdict is. I told you that we can't define
10 reasonable doubt for you. Why do you think that is? Why.
11 do you think they didn't let us define that for you? It's
12 very simple, folks. When this system was created which in
13 my opinion is the greatest judicial system that's ever
14 been created by mankind. When it was created, the
15 founding fathers of this country knew that twelve
16 individual people selected as jurors from all different
17 walks of life, from all different backgrounds, from all
18 different educational levels and experiences and ages had
19 enough good, God-given common sense to listen what came
20 out of that witness stand, to watch the witnesses, look at
21 the evidence, apply it to that law, and make a decision.
22 It's not intended to be that hard. And I submit to you,
23 ladies and gentlemen, that if you're reasonable and if you
24 use your common sense in this case, it is obvious what the
25 verdict is. Overwhelming. You heard those doctors and
26 nurses. I have -- I've never seen them testify with that
27 conviction. They saw it. They want to act like we didn't
28 even prove a sexual battery. They say we don't have an
29 eyewitness. Well, ladies and gentlemen, we had one but

1 she ain't never going to be here to tell you what
2 happened. Y'all said that you wouldn't require us to have
3 eyewitness or confessions, but they want to beat us over
4 -- well, they can't show -- they're talking about lumber
5 yards. I don't what that's got to do with anything, but I
6 tell you this. If you use your good, God-given common
7 sense and listen to what's going on, it is an insult to
8 your intelligence for him to expect you to believe what he
9 just told you while ago. He must think y'all fell off
10 some turnip truck out here on the street before you got up
11 here. It's ludicrous for you to believe what he told
12 you. I mean, the deputies, the coroner, everybody told
13 you what was wrong with that child's rectum, her anus.
14 And they told you what caused it. It's overwhelming.
15 You're talking about fingernails and skin. There weren't
16 any scratches on that baby. Why would there be skin under
17 his fingernails. And I am going to tell you something,
18 folks. The most overwhelming thing in this case is the
19 statements that man gave to the law enforcement and to the
20 people at the hospital. First of all, what does he tell
21 the people at the hospital? He don't know -- he can't
22 tell you. He ain't got any idea what's wrong. What does
23 he tell the law enforcement the night they take him down
24 there and take a statement from him. Told Buddy Frank and
25 John Manley. I don't know what happened. I just gave her
26 a bath and put her to bed. I can't tell you what
27 happened. So for one thing we know already, we know that
28 he will lie to protect himself. We know that. He
29 admitted that on his statement in the last statement, the

1 video statement. That he lied when he talked to them the
2 first time. So we know he'd like to protect himself. Mr.
3 Sermos says he didn't have time to concoct a story. What
4 was he doing up there sitting in that jail cell. What do
5 you think he was doing, knowing what was wrong with that
6 baby and what they were finding down there at that
7 hospital. What do you think he was doing? He was trying
8 to figure out a lie to tell -- to protect, to cover what
9 he knew they were going to find, and I submit to you that
10 when he gave that video statement in the written statement
11 that you're going to have a copy of two days later, that
12 that's what he was trying to do. Continue to lie to
13 protect himself. Tell just enough to make the physical
14 facts fit what he's trying to say, but, folks, he couldn't
15 explain the sexual battery. They asked him over and over
16 and over again in that tape, and he kept saying, "I can't
17 explain it. I don't know. I just can't explain how that
18 happened." There ain't no other way to explain it than to
19 admit that he committed sexual battery, ladies and
20 gentlemen. No other way. I tell you I've been
21 prosecuting up here for fifteen years, and I've seen
22 confessions and statements. I have never seen a more
23 incriminating statement from a person trying to deny that
24 they committed a crime in my life. Never. What does he
25 admit in this statement. First of all, he openly admits
26 the shaking. Of course, he wants you to think it was some
27 accident. He just shook her like this. You heard what
28 Dr. Hayne said would have to happen for this shaking to
29 cause the injuries that baby had, but he admits that

1 because he's got to. What else is he going to say. But
2 it was an accident. He was panicking. But he admits to
3 the shaking. He admits -- it's on page eighteen, and
4 y'all got a copy of the transcript. He admits the
5 opportunity. That he's the only one that had the
6 opportunity to commit the battery and the killing. He
7 says, "I know I was the only one home. It was just me and
8 the infant there. Me and Chloe." He's the only one that
9 had the opportunity by his own admission. What else does
10 he admit in the statement. He admits in the statement,
11 and he don't want to, but he's trying to cover himself,
12 trying to keep that lie where he can cover himself. He
13 admits the penetration. Says, "I just wiped her down
14 between the legs like normal, inside of her buttocks."
15 And the police officer said, "You said earlier that your
16 finger may have slipped or you may have wiped her a
17 little bit too hard." He says, "It's possible. Maybe I
18 was too rough with her. Maybe I went too far in on her."
19 He admits it, ladies and gentlemen, but they want you to
20 believe this house of cards they're building over here.
21 And this to me the most incriminating thing he says in
22 this statement, folks. They ask him did he do it, and I
23 couldn't believe this when I heard it. Says how do you
24 explain the damage that was done to her rear end. He
25 said, "I can't explain it. I don't know." Do you think
26 you've done it. And he said and I quote, "I don't think I
27 did it. I don't recollect doing it. I don't remember
28 doing it." Folks, if you hadn't done that, you'd be
29 saying, hell, no. I didn't do it. You wouldn't be not

1 recollecting doing it or not remembering doing it or not
2 thinking you did it. That ain't reasonable. That ain't
3 common sense. Ladies and gentlemen, I submit to you what
4 happened out there that night was very simple. Now, I'm
5 not making any accusations. I don't know if anything had
6 ever happened with that child before, but that night he
7 got carried away or something, and he hurt that child more
8 than he intended to in this sexual battery. He hurt her.
9 You heard him talking about how she was injured in her
10 rectal area, and what does a child do -- what's the only
11 defense an infant baby has got when something like that
12 happens to them? They scream. They don't just cry,
13 folks. They scream in pain. When they're in pain, they
14 scream. And what's he going to do then? She's screaming.
15 He's injured her. Stop her. I got to stop her from
16 screaming. Well, he stopped her all right. She ain't
17 screaming now. And then what does he do? Now, he's not
18 only injured her rectally, but he shook her so hard that
19 results in her death. What is he going to do then? I am
20 going to clean her up. He washed her up and cleaned her
21 up. Get rid of this evidence. Talking about DNA and DNA
22 on the sheet with both of them's DNA in it, and he -- want
23 to talk about there ain't no DNA on her. My, gosh, the
24 nurses said that's the cleanest baby they had ever seen in
25 their life. Clean her up. Get the evidence out of that.
26 I don't know. He may have taken a shower then himself.
27 He kept asking Ray Brown. Maybe he didn't think he got
28 clean enough. I don't know. He was in the bathroom when
29 Becky got home. Clean her up and lie. Put her in the

1 bed. Don't go in there and wake her up. She's asleep.
2 Put her up. Do you know what happened? No, I ain't got
3 any idea. I don't know what happened. Overwhelming.
4 This is not hard, folks. And I want to say this, too.
5 They want to talk about the police didn't do this and the
6 police didn't do that. You know, the Judge read you the
7 instructions. You know, they keep -- we didn't find some
8 object. It says penetration with a body part or an object
9 or whatever. They didn't know what -- they're out there
10 trying -- they don't know what -- and I don't know what he
11 used. I can't tell you what he used. I don't have to
12 tell you what he used. All I have to prove is that he did
13 it with whatever, and they keep talking about what
14 injuries. Asked Dr. Hayne -- how ever so slight the
15 penetration. Even the slightest penetration is sufficient
16 to warrant a conviction. And my goodness, he wants to ask
17 you why they didn't look for a condom. Do y'all actually
18 think that somebody that would commit this crime would
19 take the time and safety to put on a condom to do it.
20 That's an insult, folks. An insult to you. Reasonable.
21 Common sense. It's not that hard. I have confidence in
22 you. I have confidence in this system. And it's with
23 that confidence that I'm going to submit this case to you
24 on behalf of the People of the State of Mississippi and
25 ask you to go back into the jury room and deliberate it,
26 and return a verdict of guilty of capital murder because,
27 ladies and gentlemen, that's what the evidence warrants.
28 That's justice in this case. That's justice for that
29 child. Thank you. That's all I have.

1 BY THE COURT: All right. Now, ladies and
2 gentlemen, it's time for you to deliberate and to
3 decide this case. You will be allowed to take with
4 you the jury instructions that I read to you
5 previously. Also the exhibits, and also there will
6 be some paper and pencils or pens for you to write
7 with. Now, on the exhibits, I won't send all the
8 exhibits back. Some of these sheets and items
9 dealing with the kits and the blood, I am not going
10 to send those back. If y'all want to see those, just
11 let the bailiff know and I'll get those back for you
12 to see. Also the video will be available if you
13 desire to look at that, there is a transcript in
14 evidence of that, but because that is so bulky and we
15 have to pretty much do that out here, that won't go
16 back in there with you. But if you want to look at
17 the video again or if you want to see these sheets or
18 kits, assault kits, that were placed into evidence,
19 just let the bailiff know and I'll be sure
20 to send them back there so you can look at them.
21 Now, this is just a suggestion, but what you may
22 consider doing the first thing is to select from
23 among yourselves a foreperson. This person's vote
24 counts no more than everyone else on the jury, but it
25 is helpful if you have a foreperson presiding over
26 the deliberations. That way everybody doesn't talk
27 at the same time and also when you get ready to start
28 taking votes, that's real helpful. So that's just a
29 suggestion. Now, your verdict must be unanimous. It